

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IRINA KONSTANTINOV, as Conservator  
for the Estate of VLADIMIR  
KONSTANTINOV, a mentally  
incapacitated person, and  
SERGEI MNATSAKANOV,

Plaintiffs,

Case No. 04-CV-74928

vs.

HON. GEORGE CARAM STEEH

FINDLAY FORD LINCOLN MERCURY,

Defendant.

ORDER DENYING PLAINTIFFS' OBJECTION  
TO OCTOBER 22, 2007 TELEPHONIC RULING OF  
MAGISTRATE JUDGE REGARDING REBUTTAL EXPERTS [DOC. # 65]

This matter is presently before the Court on plaintiffs' objection to the portion of the October 22, 2007 telephonic ruling of the magistrate judge denying plaintiff's motion for a scheduling order provision allowing the parties to identify rebuttal experts. The court has reviewed plaintiffs' objection and defendant's response, as well as the electronic docket in this case. It appears that the magistrate judge did not have a full opportunity to consider the arguments plaintiffs want to advance in their objection to her ruling. The magistrate judge's ruling was not reduced to writing, and the court cannot fully consider the question in the absence of papers addressing the issues. It would be unfair to the magistrate judge to overturn a ruling that she may have made in the context of a telephone conference without the benefit of full briefing from both sides and a fair consideration of the court rule that applies. In particular, Fed. R. Civ. P. 26(a)(2)

applies to the disclosure of expert testimony, and Rule 26(a)(2)(C) discusses disclosures as they relate to experts providing rebuttal testimony.

For the reasons just discussed, plaintiffs' objections to the telephonic ruling of the magistrate judge are DENIED.

s/George Caram Steeh  
GEORGE CARAM STEEH  
UNITED STATES DISTRICT JUDGE

Dated: November 15, 2007

#### CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record on November 15, 2007, by electronic and/or ordinary mail.

s/Josephine Chaffee  
Secretary/Deputy Clerk